

---

STATUTORY INSTRUMENTS

---

**1999 No. 1008 (L. 8)**

**SUPREME COURT OF ENGLAND AND WALES  
COUNTY COURTS**

**The Civil Procedure (Amendment) Rules 1999**

<i>Made</i>	- - - -	<i>25th March 1999</i>
<i>Laid before Parliament</i>		<i>30th March 1999</i>
<i>Coming into force</i>	- -	<i>26th April 1999</i>

The Civil Procedure Rule Committee, having power under section 2 of the Civil Procedure Act 1997<sup>(1)</sup> to make rules of court under section 1 of that Act, after consulting in accordance with section 2(6)(a) of that Act, make the following rules—

1. These Rules may be cited as the Civil Procedure (Amendment) Rules 1999 and shall come into force on 26th April 1999.

2. In these Rules—

- (a) “the Rules” means the Civil Procedure Rules 1998<sup>(2)</sup> and a reference to a rule or Schedule by number alone means the rule or Schedule so numbered in the Rules;
- (b) a reference to an Order by number and prefixed by “RSC” means the RSC Order so numbered in Schedule 1; and
- (c) a reference to an Order by number and prefixed by “CCR” means the CCR Order so numbered in Schedule 2.

3. In rule 2.1, after paragraph 2, at the end of the table, insert—

- (a) in the first column, “6. Adoption proceedings”; and
- (b) in the second column, “Adoption Act 1976<sup>(3)</sup>, s.66”.

4. In rule 3.1, after paragraph (6), insert—

“(6A) Where a party pays money into court following an order under paragraph (3) or (5), the money shall be security for any sum payable by that party to any other party in the proceedings, subject to the right of a defendant under rule 37.2 to treat all or part of any money paid into court as a Part 36 payment.

(Rule 36.2 explains what is meant by a Part 36 payment)”.

---

(1) 1997 c. 12.  
(2) S.I. 1998/3132.  
(3) 1976 c. 36.

5. In rule 13.4, after paragraph (1), omit “(Rule 2.3 explains which court is a defendant’s home court)”; and insert–

“(1A) In this rule, “defendant’s home court” has the meaning given to it by rule 2.3, except that reference to the defendant’s address for service shall be a reference to that address shown on the last of the following documents to be filed at court giving an address for service for the defendant–

- (a) the application to set aside<sup>(GL)</sup>;
- (b) any acknowledgment of service; and
- (c) the claim form.”.

6. For paragraph (4) of rule 16.3 substitute–

“(4) In a claim which includes a claim by a tenant of residential premises against his landlord where the tenant is seeking an order requiring the landlord to carry out repairs or other work to the premises, the claimant must also state in the claim form–

- (a) whether the estimated costs of those repairs or other work is–
  - (i) not more than £1000; or
  - (ii) more than £1000; and
- (b) whether the financial value of any other claim for damages is–
  - (i) not more than £1000; or
  - (ii) more than £1000.”.

7. In rule 24.3(2)–

(a) for sub-paragraph (a) of paragraph (2) substitute–

“(a) proceedings for possession of residential premises against–

- (i) a mortgagor; or
- (ii) a tenant or person holding over after the end of his tenancy, whose occupancy is protected within the meaning of the Rent Act 1977(4), or the Housing Act 1988(5); and”;

(b) in sub-paragraph (b) after “rem” omit “.”, and insert “; and”; and

(c) after sub-paragraph (b), insert–

“(c) contentious probate proceedings.”.

8. In Part 25–

(a) at the end of the list of contents insert–

---

“Interim injunction to cease after 24 days Rule 25.11”; and  
if claim struck out

---

(b) after rule 25.10 insert–

**“Interim injunction to cease after 14 days if claim struck out**

**25.11.—(1) If–**

- (a) the court has granted an interim injunction<sup>(GL)</sup>; and

---

(4) 1977 c. 42.

(5) 1988 c. 50.

- (b) the claim is struck out under rule 3.7 (sanction for non-payment of certain fees), the interim injunction shall cease to have effect 14 days after the date that the claim is struck out unless paragraph (2) applies.
- (2) If the claimant applies to reinstate the claim before the interim injunction ceases to have effect under paragraph (1), the injunction shall continue until the hearing of the application unless the court orders otherwise.”
- 9.** In rule 27.14, for sub-paragraph (a) of paragraph (2) substitute—
- “(a) the fixed costs attributable to issuing the claim which—
- (i) are payable under Part 45; or
- (ii) would be payable under Part 45 if that Part applied to the claim;”.
- 10.** In rule 33.3, after paragraph (a), insert—
- “(aa) to an affidavit or witness statement which is to be used at trial but which does not contain hearsay evidence;”.
- 11.** In Part 34—
- (a) in rule 13, in paragraph (4)—
- (i) before “country” substitute “a” for “the”; and
- (ii) omit “to which the letter is sent”;
- (b) in rule 14—
- (i) in the heading insert “of the court” after “examiner”; and
- (ii) for paragraph (1) substitute “An examiner of the court may charge a fee for the examination.”.
- 12.** In rule 36.4, for sub-paragraph (b) of paragraph (1) substitute—
- “(b) to make a money offer in respect of the money claim and a non-money offer in respect of the non-money claim.”.
- 13.** In rule 36.6, in paragraph (3), for “the offeror has served the notice” substitute “the offeror will serve the notice”.
- 14.** In rule 36.17, in sub-paragraph (b) of paragraph (3) after “defendants” insert “if he is entitled to do so”.
- 15.** In rule 36.20, in sub-paragraph (b) of paragraph (1) before “Part” insert “defendant's”.
- 16.** In rule 42.2, in sub-paragraph (a) of paragraph (1), for “has acted” substitute “is acting”.
- 17.** In rule 44.9, for paragraph (2), substitute—
- “(2) Once a claim is allocated to a particular track, those special rules shall apply to the period before, as well as after, allocation except where the court or a practice direction provides otherwise.”.
- 18.** In rule 47.11, after paragraph (2), insert—
- “(3) Where a receiving party obtains a default costs certificate, the costs payable to him for the commencement of detailed assessment proceedings shall be the sum set out in the costs practice direction.”.
- 19.** In rule 47.14, in sub-paragraph (b) of paragraph (5), for “commences the proceedings”, substitute “files a request for a detailed assessment hearing”.
- 20.** In rule 47.16, in paragraph (1), omit “which the receiving party has”.

21. In rule 47.24, in sub-paragraph (b) of paragraph (4), for “the decision in question”, substitute “the date of the direction”.

22. In rule 47.25, in sub-paragraph (b) of paragraph (2), for “the decision appealed against”, substitute “the direction”.

23. In rule 48.4–

(a) for paragraph (2), substitute–

“(2) The general rule is that where he is entitled to be paid his costs of the proceedings out of any fund held by him as trustee or personal representative, those costs shall be assessed on the indemnity basis.”; and

(b) in paragraph (3), omit “but only”.

24. In rule 48.8–

(a) after paragraph (1), insert–

“(1A) Section 74(3) of the Solicitors Act 1974(6) applies unless the solicitor and client have entered into a written agreement which expressly permits payment to the solicitor of an amount of costs greater than that which the client could have recovered from another party to the proceedings.”; and

(b) at the beginning of paragraph (2) insert “Subject to paragraph (1A),”.

25. In rule 48.10, in paragraph (1), for “paragraph” substitute “rule”.

26. In RSC Order 11–

(a) in paragraph (1) of rule 1, omit “does not contain any claim mentioned in Order 75, rule 2(1) and”;

(b) in rule 1B–

(i) in sub-paragraph (b) of paragraph (2); and

(ii) in sub-paragraph (b) of paragraph (3), for “Part 8” in each case substitute “Part 10”; and

(c) in paragraph (1) of rule 9, after “petition” insert “or an application notice issued before proceedings have started”;

(d) after rule 9, insert–

**“Service of Part 20 claim form**

**Rule 9A.**—(1) This rule applies to any Part 20 claim, except–

(a) a counterclaim; and

(b) a claim for a contribution or indemnity made in accordance with CPR rule 20.6.

(2) Permission may be granted to serve a Part 20 claim form on any necessary or proper party to the proceedings brought against the defendants in accordance with rule 1(1)(c).”.

27. In RSC Order 17–

(a) rule 8 shall stand as paragraph (1) of rule 8; and

(b) after rule 8(1), insert–

“(2) Where the interpleader claimant fails to appear at the hearing, the Court may direct that the sheriff’s and execution creditor’s costs shall be assessed by a master or, where the

hearing was heard in a district registry, by a district judge of that registry and the following CPR rules shall apply–

- (a) 44.4 (basis of assessment);
- (b) 44.5 (factors to be taken into account in deciding the amount of costs);
- (c) 48.4 (limitations on court’s power to award costs in favour of trustee or personal representative); and
- (d) 48.6 (litigants in person).

(3) Where the claim in question is proceeding in the Admiralty Court or the Family Division, references in this rule to a Master shall be construed as references to the Admiralty Registrar or to a Registrar of that Division.”.

**28.** In RSC Order 30, in paragraph (1) of rule 7, omit–

- (a) “sitting in private” where the words first appear; and
- (b) “, either sitting in private or public,”.

**29.** In RSC Order 31, in rule 6, omit “either sitting in private or in public as he thinks fit”.

**30.** In RSC Order 44–

- (a) in paragraph (3) of rule 2, omit “in Form No. 15 in the relevant practice direction”;
- (b) in paragraph (3) of rule 11, omit “, either at a public or private hearing,”; and
- (c) in rule 12, omit paragraph (b).

**31.** In RSC Order 48, in paragraph (4) of rule 1, omit “of a grade not lower than that of higher executive officer”.

**32.** In RSC Order 52, in rule 6 for “open court”, wherever those words appear, substitute “public”.

**33.** In RSC Order 53–

- (a) in rule 3–
  - (i) in paragraph (2) omit “without notice being served on any other party”;
  - (ii) after paragraph (2) insert–

“(2A) The documents referred to in paragraphs (2)(a) and (b) need not be served on any other person.”; and
  - (iii) in paragraph (3), omit “, and need not sit in public”; and
- (b) in rule 5–
  - (i) for paragraph (2) substitute–

“(2) In any other such cause or matter, the application shall be made to a judge unless the Court directs that it shall be made to a Divisional Court of the Queen’s Bench Division.”; and
  - (ii) in paragraph (2A) omit “the issue of a”.

**34.** In RSC Order 55, in paragraph (1) of rule 4, for the words from “notice of the motion” to “is brought” substitute “the notice of appeal”.

**35.** In RSC Order 57–

- (a) in rule 1, in sub-paragraph (b) of paragraph (1), after “Order 54,” insert “Order 64, rule 4”.
- (b) for rule 5 substitute–

**“Issue of writs**

**Rule 5** Every writ issued in proceedings to which this Order applies must be prepared by the party seeking to issue it and–

- (a) shall be issued out of the Crown Office, Chancery Chambers or the principal registry of the Family Division, as the circumstances of the case require; and
- (b) must, together with the return to it and a copy of any order made on it, be filed in the Crown Office, Chancery Chambers or the principal registry of the Family Division, as the circumstances of the case require.”.

**36.** In RSC Order 58, in paragraph (1) of rule 1, omit “who may sit in private”.

**37.** In RSC Order 59–

- (a) in rule 14–
  - (i) in paragraph (2), for “in court sitting in public” substitute “at a hearing”;
  - (ii) in paragraphs (2A) and (2B), omit the words “in public” wherever they appear; and
  - (iii) omit paragraphs (7) and (8); and
- (b) in rule 24, omit paragraph (4).

**38.** In RSC Order 71, in paragraph (1) of rule 38, omit “paragraphs (2) and (3) of”.

**39.** In RSC Order 77–

- (a) in rule 7 omit the words “, or Order 86, rule 1,” wherever they appear; and
- (b) in rule 11, for “upon an application by claim form” substitute “by application, notice of which must be”.

**40.** In RSC Order 79, in rule 9–

- (a) in paragraph (4) for “judge sitting in private”, substitute “court”;
- (b) in paragraphs (4) and (5), for “judge may, if he thinks fit,” in each case, substitute “court may”;
- (c) in paragraph (6), for “judge sitting in private by whom an application for bail in criminal proceedings is heard”, substitute “court”;
- (d) in paragraph (6B)–
  - (i) for “a judge sitting in private” substitute “the court”; and
  - (ii) for “the judge” substitute “it”;
- (e) in paragraph (7)–
  - (i) for “a judge” substitute “the court”; and
  - (ii) for “the judge” substitute “the court”;
- (f) in paragraph (10), omit “by the judge sitting in private”;
- (g) in paragraph (11), for “a judge sitting in private or of a Crown Court” substitute “the High Court or the Crown Court”; and
- (h) in paragraph (12), omit “by a judge sitting in private”.

**41.** In RSC Order 79, omit rules 10 and 11.

**42.** In RSC Order 81, in rule 4, omit paragraph (5).

**43.** In RSC Order 81, in rule 10–

- (a) in paragraph (1), for “by claim form” substitute “in accordance with CPR Part 23”;

- (b) in—
  - (i) paragraph (3); and
  - (ii) paragraph (4), for “claim form”, where the words first appear, substitute “application notice”;
- (c) in—
  - (i) paragraph (3); and
  - (ii) paragraph (4),  
for “a claim form” substitute “an application”; and
- (d) in paragraph (5), for “A claim form” substitute “An application notice”.

**44.** In RSC Order 82—

- (a) for the words “a judge sitting in private” wherever they appear, substitute “the court”;
- (b) for the words “the judge” wherever they appear, substitute “the court”;
- (c) in paragraph (2) of rule 3A, for “he may” substitute “it may”; and
- (d) in rule 5—
  - (i) in paragraph (1), omit “in open Court”; and
  - (ii) in paragraph (2), for “in open Court” substitute “referred to in paragraph (1)”.

**45.** In RSC Order 91, in paragraph (2) of rule 6 omit “by a single judge of the Queen’s Bench Division or, where both parties consent,”.

**46.** In RSC Order 93, in paragraph (2) of rule 11, omit “in private”.

**47.** In RSC Order 94—

- (a) omit paragraph (5) of rule 5; and
- (b) in—
  - (i) paragraph (2) of rule 10; and
  - (ii) paragraph (2) of rule 10A,  
for “claim form” wherever those words appear, substitute “notice of appeal”.

**48.** After RSC Order 94, rule 15 insert—

**“Proceedings under the Protection from Harassment Act 1997(7)**

**Rule 16.**—(1) In this rule, “the Act” means the Protection from Harassment Act 1997.

(2) This rule shall apply to injunctions granted on or after 1st September 1998 and injunctions granted before that date shall be treated as if this rule had not come into force.

(3) Proceedings in the High Court under section 3 of the Act shall be assigned to the Queen’s Bench Division.

(4) An application for the issue of a warrant for the arrest of the defendant under section 3(3) of the Act shall—

- (a) state that it is an application for the issue of a warrant for the arrest of the defendant;
- (b) set out the grounds for making the application and be supported by an affidavit or evidence on oath;

- (c) state whether the claimant has informed the police of the defendant's conduct as described in sub-paragraph (b); and
  - (d) state whether, to the claimant's knowledge, criminal proceedings are being pursued.
- (5) The Court before whom a person is brought following his arrest may–
- (a) determine whether the facts, and the circumstances which led to the arrest, amounted to disobedience of the injunction, or
  - (b) adjourn the proceedings and, where such an order is made, the arrested person shall be released and–
    - (i) may be dealt with within 14 days of the day on which he was arrested; and
    - (ii) be given not less than 2 days' notice of the adjourned hearing.
- (6) This rule applies to proceedings under section 3 of the Act in a county court with the following modifications–
- (a) Such proceedings in a county court shall be begun–
    - (i) in the court for the district in which the claimant resides or carries on business; or
    - (ii) in the court for the district in which the defendant resides or carries on business.
  - (b) Where a county court–
    - (i) grants an injunction under section 3 of the Act; or
    - (ii) issues a warrant for the arrest of the defendant, the injunction or warrant shall be issued in the appropriate prescribed form.”.

**49.** In RSC Order 95, rule 2–

- (a) in paragraph (1)–
  - (i) omit sub-paragraphs (a) and (b); and
  - (ii) after “must”, insert “be made by claim form.”;
- (b) after paragraph (1) insert–
 

“(1A) If a consent to the satisfaction signed by the person entitled to the benefit of the bill of sale can be obtained, from claim form and the documents set out in paragraph (2) must not be served on any other person.”;
- (c) in paragraph (2), for “An application under paragraph (1)(a)” substitute “Where paragraph (1A) applies, the claim form”; and
- (d) in paragraph (3), for “A claim form under paragraph (1)(b)” substitute “Where paragraph (1A) does not apply, the claim form”.

**50.** In RSC Order 96, for paragraph (b) of rule 7 substitute–

- “(b) adjourn the claim for hearing before the judge in such manner as he shall think best adapted to secure the just, expeditious and economical disposal of the proceedings.”.

**51.** In RSC Order 97–

- (a) in paragraph (1) of rule 8, omit “in private”;
- (b) omit paragraph (2) of rule 9A;
- (c) in paragraph (1) of rule 10:–
  - (i) for “must”, substitute “may”; and
  - (ii) omit “in private”;



- (d) in paragraph (2) of rule 11, for “to the court sitting in private” substitute “in the High Court”; and
  - (e) omit rule 15.
- 52.** In RSC Order 98, in paragraph (3) of rule 4, omit “to the motion”.
- 53.** In RSC Order 99, omit rule 8.
- 54.** In RSC Order 101, in rule 4, for “claim form” wherever it appears substitute “notice of appeal”.
- 55.** In RSC Order 109, in paragraph (2) of rule 1, omit “and be heard in public”.
- 56.** In RSC Order 110, in paragraph (2) of rule 1, for “application made in accordance with CPR Part 23” substitute “claim form”.
- 57.** In RSC Order 112, in rule 3, omit “or claim form”.
- 58.** In RSC Order 113, in paragraph (3) of rule 6, for “in a claim begun in accordance with CPR Part 7” substitute “otherwise than in accordance with this Order”.
- 59.** In RSC Order 114, in paragraph (2) of rule 2, for “by claim form” substitute “in accordance with CPR Part 23”.
- 60.** In RSC Order 115–
- (a) in paragraph (2) of rule 5, for the word “summons”–
    - (i) where it first appears, substitute “application notice”; and
    - (ii) where it next appears, substitute “application”;
  - (b) in paragraph (3) of rule 6, for the word “summons” substitute “application”; and
  - (c) in rule 12, for “sitting in private and” substitute “or”.
- 61.** After RSC Order 115, insert RSC Order 116 as set out in Appendix 1 to these Rules.
- 62.** In the following RSC, omit the words “sitting in private” wherever they appear–
- (a) Order 54, paragraphs (1) and (2) of rule 9;
  - (b) Order 55, paragraph (2) of rule 6A;
  - (c) Order 56, paragraph (2) of rule 13;
  - (d) Order 59, paragraph (4) of rule 20;
  - (e) Order 71, rules 1 and 16;
  - (f) Order 79, rules 8 and 9;
  - (g) Order 93, rule 1;
  - (h) Order 106, sub-paragraph (a) of paragraph (2) of rule 2;
  - (i) Order 109, paragraphs (1) and (3) of rule 1; and
  - (j) Order 115, rule 2 and paragraph (1) of rule 25.
- 63.** In the following RSC, omit the words “sitting in public” wherever they appear–
- (a) Order 53, sub-paragraph (b) of paragraph (4) of rule 3;
  - (b) Order 56, sub-paragraph (b) of paragraph (1) of rule 1;
  - (c) Order 56, sub-paragraph (b) of paragraph (1) of rule 5; and
  - (d) Order 94, sub-paragraph (a) of paragraph (3) of rule 12.
- 64.** In CCR Order 6, in rule 6, in–

- (a) paragraph (1); and
  - (b) paragraph (2), after “hire-purchase agreement” insert “or a conditional sale agreement”.
- 65.** In CCR Order 13, for paragraph (10) of rule 1, substitute—
- “(10) An appeal shall lie to a judge from any order made by a district judge in the course of proceedings.”.
- 66.** In CCR Order 24, in paragraph (4) of rule 5, at the end of the paragraph insert “in the exercise of any power which could have been exercised if possession had been sought otherwise than in accordance with this Order.”.
- 67.** In CCR Order 27, in paragraph (3B) of rule 17, omit “Rule 5(1) shall apply and”.
- 68.** In CCR Order 28, in paragraph (1) of rule 13—
- (a) in sub-paragraph (a), for “he” substitute “the court officer”; and
  - (b) in sub-paragraph (b), for “which shall make” substitute “and the court officer at the foreign court shall make”.
- 69.** In CCR Order 42, in paragraph (1) of rule 13, for “Orders 25 to 32” substitute “Orders 25 to 31 or RSC Order 30 (in so far as it applies to proceedings in the county court)”.
- 70.** In CCR Order 43—
- (a) omit rule 18;
  - (b) in paragraph (3) of rule 20, omit “under rule 14”.
- 71.** In CCR Order 48B, in paragraph (6G) of rule 2, for “a summons” substitute “an order”.
- 72.** After CCR Order 48B, insert CCR Order 48D as set out in Appendix 2 to these Rules.
- 73.** In CCR Order 49—
- (a) in paragraph (7) of rule 1, omit “and may, if the court thinks fit, be dealt with in private”;
  - (b) in rule 6—
    - (i) in sub-paragraph (i) of paragraph (7), insert at the beginning of the sub-paragraph “the first written tenancy agreement and”;
    - (ii) in paragraph (9) for “paragraphs (c) and (d) of Order 3, rule 6 (mode of service)”, substitute “paragraphs (8) and (9) of Order 3, rule 6 (commencement of proceedings)”.
  - (c) in rule 6A—
    - (i) for sub-paragraph (i) of paragraph (7), substitute—

“(i) the first written tenancy agreement and the current (or most recent) written tenancy agreement;”; and
    - (ii) in paragraph (11) for “paragraphs (c) and (d) of Order 3, rule 6 (mode of service)”, substitute “paragraphs (8) and (9) of Order 3, rule 6 (commencement of proceedings)”;
  - (d) in paragraph (4) of rule 6B, before the word “affidavit”, where it first appears, insert “witness statement or”;
  - (e) in rule 13, omit paragraph (3); and
  - (f) omit rule 18.

*Woolf M.R.  
Richard Scott V-C.  
Anthony May L.J.  
John Leslie  
Richard Holman  
Godfrey Gypps  
Henrietta Manners  
Nicholas Chambers  
David Foskett  
Peter Watson  
Harriet Kimbell  
Olivia Morrison-Lyons  
David Greene  
Peter Haworth*

I allow these Rules

Dated 25th March 1999

*Irvine of Lairg, C.*

**APPENDIX 1**

Rule 61

**RSC ORDER 116**

**THE CRIMINAL PROCEDURE AND INVESTIGATIONS ACT 1996(8)**

**Application**

1. This Order shall apply in relation to acquittals in respect of offences alleged to be committed on or after 15th April 1997.

**Interpretation**

2. In this Order, unless the context otherwise requires—

“the Act” means the Criminal Procedure and Investigations Act 1996;

“acquitted person” means a person whose acquittal of an offence is the subject of a certification under section 54(2) of the Act, and “acquittal” means the acquittal of that person of that offence;

“magistrates' court” has the same meaning as in section 148 of the Magistrates' Courts Act 1980(9);

“prosecutor” means the individual or body which acted as prosecutor in the proceedings which led to the acquittal;

“record of court proceedings” means—

(a) (where the proceedings took place in the Crown Court) a transcript of the evidence, or

(b) a note of the evidence made by the justices' clerk,

in the proceedings which led to the conviction for the administration of justice offence referred to in section 54(1)(b) of the Act or, as the case may be, the proceedings which led to the acquittal;

“single judge” means a judge of the Queen’s Bench Division;

“witness” means a witness whose evidence is contained in a witness statement or affidavit filed under rule 5, 7, 8 or 9.

**Assignment of proceedings**

3. The jurisdiction of the High Court under section 54(3) of the Act shall be exercised by a single judge.

**Time limit for making application**

4. An application under section 54(3) of the Act shall be made not later than 28 days after—

(a) the expiry of the period allowed for appealing (whether by case stated or otherwise), or making an application for leave to appeal, against the conviction referred to in section 54(1)(b) of the Act; or

(b) where notice of appeal or application for leave to appeal against the conviction is given, the determination of the appeal or application for leave to appeal and, for this purpose,

---

(8)  
(9) 1980 c. 43.

1996 c. 25.

“determination” includes abandonment (within the meaning of rule 10 of the Criminal Appeal Rules 1968<sup>(10)</sup> or, as the case may be, rule 11 of the Crown Court Rules 1982<sup>(11)</sup>).

### **Application**

**5.—(1)** An application under section 54(3) of the Act shall be made by claim form which shall be issued out of the Crown Office by the prosecutor.

(2) The application shall be accompanied by—

- (a) a witness statement or affidavit which deals with the conditions in section 55(1), (2) and (4) of the Act and which exhibits any relevant documents (which may include a copy of any record of court proceedings);
- (b) a copy of the certification under section 54(2) of the Act.

### **Notice to the acquitted person**

**6.—(1)** The prosecutor shall, within 4 days of the issue of the application, serve written notice on the acquitted person that the application has been issued.

(2) The notice given under paragraph (1) shall—

- (a) specify the date on which the application was issued;
- (b) be accompanied by a copy of the application and of the documents which accompanied it;
- (c) inform the acquitted person that—
  - (i) the result of the application may be the making of an order by the High Court quashing the acquittal, and
  - (ii) if he wishes to respond to the application, he must, within 28 days of the date of service on him of the notice, file in the Crown Office any witness statement or affidavit on which he intends to rely.

### **Witness statement or affidavit of service on an acquitted person**

**7.** The prosecutor shall, as soon as practicable after service of the notice under rule 6, file at the Crown Office a witness statement or affidavit of service which exhibits a copy of the notice.

### **Response of acquitted person**

**8.—(1)** If the acquitted person wishes to respond to the application, he shall, within 28 days of service on him of notice under rule 6, file in the Crown Office a witness statement or affidavit which—

- (a) deals with the conditions in section 55(1), (2) and (4) of the Act; and
- (b) exhibits any relevant documents (which may include a copy of any record of court proceedings).

(2) The acquitted person shall, within 4 days of the filing of the documents mentioned in paragraph (1), serve copies of them on the prosecutor.

### **Evidence**

**9.—(1)** A witness statement or affidavit filed under rule 5, 7, 8 or this rule may contain statements of information or belief with the sources and grounds thereof.

---

<sup>(10)</sup> S.I. 1968/1262.

<sup>(11)</sup> S.I. 1982/1109; the relevant amending instruments are S.I. 1988/952 and 1322.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(2) The prosecutor may, not later than 10 days after expiry of the period allowed under rule 8(1), apply for an order granting permission to file further evidence without notice being served on any other party.

(3) If the single judge grants permission, the order shall specify a period within which further evidence or records are to be filed, and the Crown Office shall serve a copy of the order on the prosecutor and on the acquitted person.

(4) The prosecutor shall, within 4 days of filing further evidence in the Crown Office, serve a copy of that evidence on the acquitted person.

### **Determination of the application**

**10.**—(1) Subject to paragraph (3), the single judge shall determine whether or not to make an order under section 54(3) of the Act on the basis of the written material provided under rules 5, 7, 8 and 9 in the absence of the prosecutor, the acquitted person, or of any witness.

(2) The determination shall not be made, and any hearing under paragraph (3) shall not take place, before the expiry of—

(a) 10 days after the expiry of the period allowed under rule 8(1), or

(b) 10 days after the expiry of the period allowed by any order made under rule 9(3).

(3) The single judge may, of his own initiative or on the application of the prosecutor or acquitted person, order a hearing of the application if he thinks fit.

(4) An application under paragraph (3) shall state whether a hearing is desired in order for a deponent for the other party to attend and be cross-examined, and, if so, the reasons for wishing the witness to attend.

(5) An application under paragraph (3) shall be made no later than 7 days after the expiry of the period allowed—

(a) under rule 8(1), or

(b) by any order made under rule 9(3).

(6) Where a hearing is ordered, the single judge may, of his own initiative or on the application of the prosecutor or acquitted person, order a witness to attend in order to be cross-examined.

(7) The prosecutor or the acquitted person, as the case may be, shall within 4 days after filing the application under paragraph (3), serve a copy of it on the other party, and file in the Crown Office a witness statement or affidavit of service.

(8) A party served under paragraph (7) shall, within 5 days of service, file any representations he wishes to make as to whether or not a hearing should be ordered.

(9) Subject to paragraph (10) below—

(a) the single judge shall not determine an application for a hearing under paragraph (3) unless—

(i) a witness statement or affidavit of service has been filed as required by paragraph (7), and

(ii) the period for filing representations allowed under paragraph (8) has elapsed, or

(iii) representations have been filed under paragraph (8).

(b) The requirements imposed by sub-paragraph (a)(i) and (iii) are satisfied even though the witness statement or affidavit of service or, as the case may be, the representations are filed outside the time limits allowed.

(10) Where after an application for a hearing has been made—

(a) no witness statement or affidavit of service has been filed, and

(b) no representations under paragraph (8) have been received after the expiry of 7 days from the filing of the application,

the single judge may reject the application.

(11) Where after a hearing is ordered, either the prosecutor or the acquitted person desires a witness for the other party to attend the hearing in order to be cross-examined, he must apply for an order under paragraph (5) giving his reasons without notice being served on any other party.

(12) The Crown Office shall serve notice on the prosecutor and the acquitted person of any order made under the foregoing paragraphs of this rule and, where a hearing is ordered, the notice shall—

(a) set out the date, time and place of the hearing, and

(b) give details of any witness ordered to attend for cross-examination.

(13) A hearing ordered under paragraph (3) above shall be in public unless the single judge otherwise directs.

(14) the Crown Office shall serve notice of any order made under section 54(3) of the Act quashing the acquittal or of a decision not to make such an order on the prosecutor, the acquitted person and—

(a) where the court before which the acquittal or conviction occurred was a magistrates' court, on the justices' clerk;

(b) where the court before which the acquittal or conviction occurred was the Crown Court, on the appropriate officer of the Crown Court sitting at the place where the acquittal or conviction occurred.

## APPENDIX 2

Rule 72

### CCR ORDER 48D

#### ENFORCEMENT OF FIXED PENALTIES UNDER THE ROAD TRAFFIC (VEHICLE EMISSIONS) (FIXED PENALTY) REGULATIONS 1997

##### Application and interpretation

1.—(1) This Order applies for the recovery of fixed penalties as defined in regulations 2(1)(b) and 9 of the 1997 Regulations.

(2) In this order, unless the context otherwise requires—

“authority” means a participating authority as defined in regulation 2(1)(f) of the 1997 Regulations;

“order” means an order made under regulation 10(1) of the 1997 Regulations;

“the Order” means the Enforcement of Road Traffic Debts Order 1993;

“respondent” means the person on whom the fixed penalty notice was served;

“specified debts” means the Part II debts specified in article 2(1)(a) of the Order;

“the 1997 Regulations” means the Road Traffic (Vehicle Emissions) (Fixed Penalty) Regulations 1997.

(3) Unless the context otherwise requires, expressions which are used in the 1997 Regulations have the same meaning in this Order as they have in those Regulations.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## **The Parking Enforcement Centre**

2. The parking enforcement centre established in rule 1A of Order 48B shall have such functions relating to proceedings under this Order and other related matters as the Lord Chancellor may direct.

## **Requests for Orders and Warrants of Execution**

3.—(1) An authority which wishes to take proceedings under this Order shall give notice to the court officer and, where the court officer so allows, a combined request for an order and a warrant of execution may be made, and such an order may be enforced and a warrant executed in accordance with the following provisions of this Order.

(2) An authority shall file a combined request for an order and a warrant of execution in the appropriate form or in another manner approved by the court officer scheduling the fixed penalties in respect of which an order and warrant of execution are sought.

(3) The authority shall in the request or in another manner approved by the court officer—

(a) certify—

(i) that 56 days have elapsed since the issue of the fixed penalty notice,

(ii) the amount due under the fixed penalty notice and the date on which it was issued, and

(iii) that the amount due remains unpaid;

(b) give the number of the fixed penalty notice;

(c) specify (whether by reference to the appropriate code or otherwise) the grounds stated in the fixed penalty notice and in regulation 2(1)(d) of the 1997 Regulations on which the authorised person who issued the fixed penalty notice believed that a fixed penalty was payable with respect to that vehicle;

(d) state—

(i) the name and address of the respondent and where known, his title;

(ii) the registration number of the vehicle concerned;

(iii) (whether by reference to the appropriate fixed penalty notice number or otherwise) the authority's address for service;

(iv) the court fee.

(4) If satisfied that the combined request is in order, the court officer shall order that the fixed penalty (together with the court fee) may be recovered as if it were payable under a county court order by sealing the request and returning it to the authority.

(5) When the court officer so orders and on receipt of the sealed request, the authority shall, within 7 days of the sealing of the request, prepare the warrant in the appropriate form.

## **Documents**

4.—(1) Rule 3 of Order 48B shall apply to this Order with the modification referred to in paragraph (2).

(2) The reference to rule 2(2) in rule 3(1) of Order 48B shall be a reference to rule 3(2) of this Order.

## **Enforcement of Orders**

5.—(1) Rule 5 of Order 48B shall apply to this Order with the modifications referred to in paragraphs (2), (3) and (4).



- (2) Paragraphs (3), (4) and (7) of rule 5 shall not apply.
  - (3) Sub-paragraphs (c) and (d) of rule 5(9) shall not apply.
  - (4) In paragraph (11) of rule 5, the references to the words “charge certificate” shall be references to the words “fixed penalty notice”.
  - (5) Where a fixed penalty notice is withdrawn under regulation 12 of the 1997 Regulations–
    - (a) any order made or warrant issued in respect of that fixed penalty notice is deemed to be revoked;
    - (b) any execution issued on the order shall cease to have effect, and
    - (c) the authority shall forthwith inform any bailiff instructed to levy execution of the withdrawal of the warrant.
- 

## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules amend the Civil Procedure Rules 1998 and come into force at the same time as those Rules. The Rules correct errors in the 1998 Rules and make certain changes to those Rules. The main changes are–

- to provide for the basis upon which the court holds money paid into court under a court order;
- to provide for what happens to a subsisting interim injunction when a claim is struck out for non-payment of fees;
- to clarify the costs position before allocation to track, where a case is allocated to a track that has special rules as to costs;
- to provide for fixed costs where a party obtains a default costs certificate;
- to remove references to proceedings being in chambers or open court.

The Rules also insert provisions formerly contained in Order 94 r. 16 (proceedings under the Protection from Harassment Act 1997 (c. 40)) and Order 116 (The Criminal Procedure and Investigations Act 1996 (c. 25)) of the Rules of the Supreme Court 1965 and Order 48D (Enforcement of Fixed Penalties) of the County Court Rules 1984.